

## REMARKS

This Response is submitted in reply to the Office Action dated September 14, 2007 in conjunction with the enclosed Request for Continued Examination. Claims 1, 6, 10, 18, 22, 27, 38, 39, 40, 42-44, 48 and 50-54 have been amended. No new matter has been added by such amendments. The Commissioner is hereby authorized to charge deposit account 02-1818 for all fees which are due and owing in connection with this Response.

As noted above, Applicant has filed a Request for Continued Examination with this Response. Accordingly, Applicant requests that the Examiner provide an upcoming Office Action which will ". . . identify any claims which he or she judges, as presently recited, to be allowable and/or . . . suggest any way in which he or she considers that rejected claims may be amended to make them allowable" in accordance with §707.07(d) of the MPEP.

### 1. Drawings

The Office Action objected the drawings under 37 C.F.R. § 1.83(a). Specifically, the Office Action states the following:

The drawings must show every feature of the invention specified in the claims. Therefore, the display device (clm 22) in combination with a representation being printed on a table or covering (clm 29) or being a three dimension structure (clm 30), and chart, pie chart (clms 34, 36) must be shown or the feature(s) canceled from the claim(s).

Applicant has added a new Figure 13 which illustrates such features. Applicant has canceled dependent claims 29 and 30. No new matter has been added to the drawings. Such figure illustrates a display device 300 in combination with a game area 316 and representations 313, including a chart 360, a graph 362 and a pie chart 364. Support for the figure can be found in the Specification, for example, as follows: (a) "[t]he invention can be implemented in digital circuitry, or in computer hardware, firmware, software, or in combinations of them." (Specification, Page 14, Lines 16-17); and (b) "[t]he display can include a graph, such as for example, a bar graph, or a chart, such as, for example, a pie chart." (Specification, Page 4, Lines 11-12).

Applicant has amended the Specification to make it consistent with such new figure. Such amendment recites " . . . a bar graph or chart 360 being displayed on a screen. The chart may be a pie chart 364. In an implementation where a graphic of a graph 362 or chart 360 is used to indicate the tracked progress . . . ." Support for these amendments can be found in the Specification, for example, as follows: "[t]he display can include a graph, such as for example, a bar graph, or a chart, such as, for example, a pie chart." (Specification, Page 4, Lines 11-12). Accordingly, such new figure and amendment overcomes the Office Action's objection.

## **2. Claim Rejections – 35 U.S.C. § 112**

The Office Action rejected claim 38 under 35 U.S.C. § 112, second paragraph, as being indefinite with respect to the use of the term "An comprising." Applicant has replaced "An comprising" with "An apparatus." Accordingly, such amendment overcomes such rejection.

## **3. Claim Rejections – 35 U.S.C. § 102**

The Office Action rejected:

- (a) claims 1-13, 16-18, and 20-21 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,718,431 to Orenstein ("Orenstein '431");
- (b) claims 1-13, 15-18, 20-23, 25-27, 38-51, 53-54, 56-59 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Nos. 5,788,574 to Orenstein ("Orenstein '574") or 5,570,885 to Orenstein ("Orenstein '885");
- (c) claims 1-4, 6-10, 12-13, 15-18, 20-23, 25-27, 29-33, 37-42, 44-48, 50-51, 53-54, and 56-59 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,586,766 to Forte ("Forte"); and
- (d) claims 1-13, 15-18, 20-23, 25-27, 30-32, 34-35, 37-51, 53-54, and 56-59 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,851,010 to Feinberg ("Feinberg").

The Office Action also stated that "the invention defined by claim language regarding first, second and/or third wager or streak round (or similar) fails to preclude wagers by multiple players/bettors over successive or simultaneous rounds of play at least due to a plurality or multiple players includes a player or stated in the alternative comprising a player fails to preclude multiple or a plurality of players due to open-ended of comprising." Applicant refers to previously presented claims 1-18, 20-23, 25-27, 29-54 and 56-59 in the Response to Office Action dated February 26, 2007 as "Prior Claims." Applicant respectfully disagrees with, and traverses, such rejections at least for the following reasons.

For reference, Applicant notes that Prior Claim 1 recited "receiving a first streak wager on a first streak round from a player and a second streak wager on a second streak round from said player . . ." However, none of the cited references disclose receiving a first streak wager on a first streak round from a player and a second streak wager on a second streak round from said player. The Office Action relied upon the cited references to find a disclosure of multiple players placing such first and second streak wagers. Even if such reliance were proper, the cited references do not disclose the idea of receiving a first streak wager from a player and receiving a second streak wager from said player. For this reason alone, the rejections are improper, and the Prior Claims are patentably distinguished from the cited references. As described below, Applicant elected to add "single player" language to the claims to advance the prosecution of this application.

The Office Action rejected independent Prior Claims 1 and 18 under 35 U.S.C. 102(b) as anticipated by Orenstein '431. Further, the Office Action rejected independent Prior Claims 1, 18, 22, 38, 39 and 54 under 35 U.S.C. 102(b) as anticipated by Orenstein '574 or '885. The Office Action stated that Orenstein '431 and '574 or '885 disclose a system including "receiving first and second (and third) streak wager on first and second (and third) streak round . . .," and "where first, second and third wager/streaks are representative of first, second and third players wagers which can be simultaneous during main rounds of play since players may place proposition [such as streak wager] bets prior to start of any game or first, second and third

wager/streak are representative of a wager from a single player at differing subsequent [not simultaneous] rounds of play." However, in Orenstein '431, '574 and '885, the player bets only one side bet at a time for a single primary game. Accordingly, there are no multiple streak rounds with opportunities for a player to make first and second wagers.

The Office Action rejected independent Prior Claims 1, 18, 22, 38, 39 and 54 under 35 U.S.C. §102(b) as anticipated by Forte. The Office Action stated that Forte discloses "receiving first and second (and third) streak wager[s] on first and second (and third) streak round[s]." However, Forte does not disclose receiving a first streak wager on a first streak round from a player and a second streak wager on a second streak round from the same player. Forte is directed to a card game system having player counters which count or tally events for betting. For example, Forte discloses status displays which are connected to display player jackpot count values that correspond to the number of consecutive natural hands of blackjack dealt to the players. Accordingly, there are no multiple streak rounds with opportunities for a player to make first and second wagers.

The Office Action rejected independent Prior Claims 1, 18, 22, 38, 39 and 54 under 35 U.S.C. 102(b) as anticipated by Feinburg. Specifically, the Office Action stated that Feinberg discloses "receiving first and second (and third) streak wager[s] on first and second (and third) streak round[s]." However, Feinberg does not disclose multiple streak rounds with opportunities for a player to make first and second wagers. Feinberg is directed to a method of playing a game in which the player selects one of the first and second outcomes for each gaming decision as a side bet. In Feinberg, the player wagers on only one outcome. For example, Feinberg discloses in blackjack, the first and second cards dealt to the player can be used as an outcome for gaming decisions. The player selects red or black for each gaming decision as a side bet. (Feinberg, Column 5, Lines 29-35). Accordingly, there are no multiple streak rounds with opportunities for a player to make first and second wagers.

Additionally, with regard to independent Prior Claims 1, 18, 22, 38, 39, and 54, the Office Action stated " . . . with respect the to claimed apparatus . . . claims directed

to an apparatus must be distinguished from prior art in terms of structure rather than function."

The Office Action does not identify with specificity which elements the Office Action considers not to be structure. If the Examiner decides not to withdraw the above-referenced rejection, Applicant respectfully requests that the upcoming Office Action indicate the specific claimed elements which the Office Action considers to not be structure. If the Examiner is referring to the processor elements, Applicant submits that the independent Prior Claims are, in fact, distinguished from the prior art in terms of structure.

The MPEP supports Applicant's position. Section 2106.01 of the MPEP states:

When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium . . . . MPEP § 2106.01.

[A] claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. MPEP § 2106.01.

USPTO personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claims remain statutory irrespective of the fact that a computer program is included in the claim. The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program. MPEP § 2106.01.

When a computer program is recited in conjunction with physical structure, such as a computer memory, USPTO should treat the claim as a product claim. MPEP § 2106.01.

For the forgoing reasons, Applicant submits that the apparatus Prior Claims are patentably distinguished from the cited references in terms of structure. In addition, for all of the reasons provided above, Applicant submits that the Prior Claims are patentably distinguished from the cited references.

#### 4. Amendments

Despite the forgoing traversal, Applicant has amended independent claims 1, 18, 22, 38, 39 and 54 to advance the prosecution of this application.

Amended independent claim 1 recites, among other elements, "receiving a first streak wager on a first streak round from a single player and a second streak wager on a second streak round from said single player and displaying a representation of the first and second streak wagers . . . ."

Amended independent claim 18 recites, among other elements, "receiving a second streak wager associated with a second streak round from said single player and displaying a representation of the second streak wager. . . ."

Amended independent claim 22 recites, among other elements, "the game being operable upon: (a) at least one game wager receivable from a single player, and (b) a plurality of side wagers which are receivable from the single player; at least one memory device which stores a plurality of instructions; and at least one processor configured to execute the instructions to: (a) cause the at least one game wager to be received from the single player, (b) cause a plurality of the side wagers to be received from the single player, (c) enable a plurality of consecutive plays of the game by the single player . . . ."

Amended claim 38 includes, among other elements, "[a]n apparatus comprising: at least one display device; at least one memory device which stores a plurality of instructions; and at least one processor configured to execute the instructions to control the display device to display: (a) a game image associated with a game operable upon at least one wager by a single player, (b) at least one additional image which indicates: (i) an occurrence of any first streak outcomes achieved by the single player during a plurality of consecutive plays of the game, and (ii) an occurrence of any second streak outcomes achieved by the single player during the plurality of consecutive plays of the game . . . ."

Amended independent claim 39 includes, among other elements, "a data storage medium storing a plurality of instructions, which when executed by at least one processor, cause a computer system to: receive a first streak wager on a first streak

round from a single player and a second streak wager on a second streak round from said single player . . . .”

Amended independent claim 54 includes, among other elements, “a data storage medium storing a plurality of instructions, which when executed by at least one processor, cause a computer system to: receive a first streak wager associated with a first streak round from a single player and display a representation of the first streak wager . . .”, and “receive a second streak wager associated with a second streak round from said single player and display a representation of the second streak wager . . . .”

Support for such amendments can be found in the Specification on at least Page 5, Lines 20-25.

Applicant submits that neither Orenstein '431, '574 or '885, Forte, nor Feinburg disclose such elements and that amended independent claims 1, 18, 22, 38, 39 and 54 are in condition for allowance.

#### **5. Claim Rejections – 35 U.S.C. § 103**

The Office Action rejected Prior Claims 14, 34-35 and 52 under 35 U.S.C. § 103(a) as being obvious over Feinberg. In addition, the Office Action rejected Prior Claims 33 and 36 under 35 U.S.C. § 103(a) as being unpatentable over Feinberg. Applicant respectfully submits that amended claims 14, 33, 34-35, 36 and 52 are patentably distinguished over Feinberg for reasons similar to those submitted with respect to amended independent claims 1, 22, and 39 and are in condition for allowance.

For all of the reasons provided above, Applicant submits that all of the claims are in condition for allowance.

An earnest endeavor has been made to place this application in condition for formal allowance and is courteously solicited. If the Examiner has any questions regarding this Response, Applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,

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